

August 10, 1999

The Honorable Paul Caron
State House, Room 275
Boston, MA 02133

**RE: Estimated FY 2000 Cost Impact of The Gun Control Act of 1998 on
Massachusetts Cities and Towns.**

Dear Representative Caron:

This letter is in response to your request for an opinion as to whether the Local Mandate Law, G. L. c. 29, s. 27C, applies to the municipal cost of implementing The Gun Control Act of 1998 (Chapter 180 of the Acts of 1998 and further amendments made by Chapter 358 of the Acts of 1998). You also requested a determination of the municipal cost impact. Our cost study focuses on the provision that, in effect, requires local police departments to re-issue all Firearms Identification Cards (FID cards) during Fiscal Year 2000 and every fourth year thereafter.

Under Chapter 180, all FID cards will expire if not renewed during fiscal year 2000. Prior to this change, the FID card was a life-long license with no expiration date. Consequently, the task of local police departments had been limited to issuing licenses to new applicants for FID cards, and renewals were not necessary. The Executive Office of Public Safety (EOPS) estimates that 800,000 FID cards will need to be renewed in FY 2000 in accordance with Chapter 180. EOPS has already mailed more than 100,000 renewal notices to FID cardholders with birth dates in July and August.

In relevant part, the Local Mandate Law provides that any post-1980 law imposing additional costs on any city or town will be effective only if it is locally accepted or fully funded by the commonwealth. A municipality aggrieved by a state law enacted contrary to this standard may seek a superior court order exempting it from compliance until the state assumes the cost. In such proceedings, the State Auditor's determination of actual or estimated costs is prima facie evidence of the amount of state funding required.

It is my opinion that the Act will impose additional costs on cities and towns in fiscal year 2000 that are subject to the provisions of the Local Mandate Law. Consequently, I recommend consideration of several amendments to the Gun Control Act of 1998. Under the current implementation plan, my Division of Local Mandates estimates that the FY 2000 municipal cost of the FID card renewal program will be approximately \$17.6 million. This estimated cost will be offset by the municipal share of fee revenue from license renewals. Chapter 180 allows the issuing municipality to retain \$12.50 of the \$25 uniform statewide license fee. We estimate this revenue to be approximately \$6.8 million leaving the unreimbursed cost impact at \$10.8 million. To offset these costs, I recommend an amendment authorizing municipalities to retain the entire \$25 uniform statewide gun license fee established by Chapter 180. Should this option be implemented, further amendments would be required relative to the Firearms Record Keeping Fund. Chapter 180 currently earmarks the state's 50% share of license fee revenue to this fund for local and state technology upgrades.

Another area in need of legislative attention is an informal Chapter 180 implementation agreement between state and local police agencies that is at variance with provisions of the Act. DLM's municipal impact estimate includes the cost of several background checks that are currently conducted by municipal police departments. Chapter 180 does not mandate that cities and towns conduct background checks. Under section 29 of Chapter 180, the Colonel of the State Police is responsible for all background checks. However, due to an agreement reached between state and local police, the State Police run the Automated Fingerprint Indexing System (AFIS) search, while municipal departments currently conduct all other checks, which include the following databases:

- Warrant Management System (WMS);
- Bureau of Probation/Department of Corrections (BOP/DOC);
- Interstate Identification Index (III);
- National Instant Criminal Record Check (NICR);
- Massachusetts Department of Mental Health (DMH).

We have been informed that the agreement that local departments would continue to conduct these checks despite the statutory provision assigning these tasks to the State Police was reached due to a realization that State Police resources are not sufficient to review the volume of applications expected from July 1, 1999 to June 30, 2000. I believe that the municipalities' voluntary assumption of these tasks from the state provides compelling justification for increased fee revenue or other state funding. I recommend that municipal government representatives be consulted concerning formalization of a municipal background check responsibility in return for an amendment authorizing retention of all fee revenue.

To determine the municipal cost impact, my Division of Local Mandates (DLM) asked 30 police departments to provide cost information concerning their FY 2000 FID card renewal programs. We used this information to determine the average cost of issuing a single FID card, or “unit cost” of the group sampled. The results of this survey and a map showing the communities contacted are attached. The key findings are listed below.

Survey Results

- All 30 municipalities we surveyed have documented that their costs exceed the local share of license fee revenue.
- For the survey group of 30 police departments, the average unit cost of issuing a typical FID card is \$29.28
- Applicants who are age 70 and older are exempt from the license fee. Based on census data, (source: MISER), we estimate that 10% of those renewing FID cards in FY 2000 will be age 70 and over. To reflect the impact of this exemption, retained municipal revenue should be reduced by 10%. Therefore, on average, FID card revenue will actually be \$11.25 per renewal rather than the \$12.50 provided for by Chapter 180.
- Accordingly, the net cost of issuing a typical FID card for our survey group is \$18.03 after deducting retained license fee revenue (\$29.28 average cost minus \$11.25 average revenue).
- Should the law be amended to authorize municipalities to retain 100% of license fees, the net cost of the surveyed group would be \$6.78 after deducting fee revenues (\$29.28 average cost minus \$22.50 average revenue).

Statewide Cost Estimate

This estimate of the statewide municipal cost of FID card renewals is based on the unit cost of our 30-municipality sample. Also, we estimate that 25% of FID cards will not be renewed by their holders in FY 2000 as required by Chapter 180. This adjustment is based on less than perfect compliance experience with new state laws in general, due to the lack of information, inertia, etc.

800,000	EOPS estimate of active FID cards
200,000	Estimated non-renewers (25%)

600,000	Estimated renewals FY 2000
x \$29.28	Average unit cost, 30-municipality sample
\$17,568,000	Estimated statewide municipal cost
\$ 6,750,000	Municipal 50% share of fee revenue (600,000 x \$11.25)
\$10,818,000	Unreimbursed municipal cost
\$ 4,068,000	Unreimbursed cost estimate if municipalities retain all fee revenue

The police departments we surveyed made us aware that their unit cost estimates are based on a typical FID card application. Applications where a criminal record is found require further review, and therefore added cost. Where an application involves an issue which leads to a denial letter and appeal to district court, the costs are higher still. Also, most departments have found that many residents with expiring FID cards are applying for a license to carry (LTC) rather than a renewal of their FID card. The LTC review process is more costly to cities and towns than that for an FID card. Chapter 180 also requires local police departments to inspect and license 966 retail gun shops statewide. Finally, many police departments we contacted did not evaluate the impact of overtime pay that may become necessary due to the FID card renewal provision.

Nevertheless, representatives of several municipalities indicate that increasing permit fee revenue to \$25 will provide a reliable source of basic funding necessary for most Chapter 180 implementation programs at the local level. For municipalities with high costs further state funding may be required under the Local Mandate Law. Investments in technology to be granted to local police departments from the Firearms Record Keeping Fund would improve license renewal efficiency, but such grants may not be effective during FY 2000, particularly if a funding source other than permit fee revenue must be found.

The local police officials we contacted recognize the benefits of the FID card renewal provision; such as providing information to licensees concerning the important changes brought about by Chapter 180, and updating the Gun Owner Registry, in addition to the obvious benefits of re-screening FID card holders. However, every municipality we contacted has documented that the local share of state license fees is not sufficient to support their efforts. For example, with a unit cost of \$43.75, Springfield estimates that its FID card renewal program will cost \$1.6 million in FY2000 against estimated retained revenue from license fees of \$427,500. The Town of Longmeadow

The Honorable Paul Caron
Page Five

estimates that its unit cost of \$19.03 will result in a total program cost of \$64,702 against revenue of \$38,250.

Due to the variability of Chapter 180 implementation costs, a cost certification provision may be appropriate should the current state-local revenue sharing formula be retained and new state funding be provided to support municipal efforts. An example of a cost certification program currently in effect is the Uniform Polling Hours Act, Chapter 503 of the Acts of 1983, under which my Division of Local Mandates has certified state mandated election costs for every city and town since 1984 for subsequent appropriation and distribution to municipalities.

Thank you for your request to review The Gun Control Act of 1998. Please contact me if you require additional information concerning applicability of the Local Mandate Law, or other areas of municipal cost impact related to the Act.

Sincerely,

A handwritten signature in black ink, reading "A. Joseph DeNucci". The signature is fluid and cursive, with the first name "A." and last name "DeNucci" clearly legible.

A. JOSEPH DeNUCCI
Auditor of the Commonwealth

AJD:pd

Enclosures

cc: The Honorable Mark C. Montigny, Chairman
Senate Committee on Ways and Means

The Honorable Paul R. Haley, Chairman
House Committee on Ways and Means